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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,835	01/11/2001	K. Scott Kammerer	12714	8539

7590

05/16/2003

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EXAMINER

SPISICH, MARK

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 05/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/758,835

Applicant(s)

KAMMERER ET AL.

Examiner

Mark Spisich

Art Unit

1744

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: _____

DETAILED ACTION

Notice of Informal Examiner's Amendment

"14" (paragraph 0024, lines 4 and 6) changed to – 12 --.

General Comment Re Application and Claims

Applicant broadly discusses some prior art swabs and then states that the swab of the present invention does or performs a specific function (in claim 1, lines 8-13) without specifically defining the term "electro-static dissipative material" and, more importantly, disclosing the specific material composition of the recited swab which is supposed to function in the recited manner. For example, paragraph 0023 states that the material of the cleaning head portion can be "foam, conductive foam, micro-porous foam, polyester, sealed conductive fabric and wrapped conductive fabric". There is no mention of any specific types of the noted materials which are used to produce the desired effect. As such, the term "electro-static dissipative material" has been given the broadest reasonable interpretation in light of the list of possible materials. As applicant has chosen to define the claim(s) in terms of what the swab does as opposed to what it is (in the claims as well as the specification), prior art devices which meet the broad material recitations recited in the dependent claims and the specification are deemed to be capable of functioning in the recited manner.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pisacane et al (USP 5,460,655) in view of the admitted prior art of paragraph 0005. The patent to Pisacane discloses a swab (40) (see fig 4 as well as column 3, lines 23-30) comprising a handle (of polypropylene) on which is secured an open-cell, hydrophilic, **static-dissipative**, polyurethane foam (see column 3, lines 4-5). The patent to Pisacane discloses the invention substantially as claimed with the exception of stating that the handle is formed of a electro-static dissipative material. The noted paragraph of the present application states that it is known in the art to form a cleaning swab handle of a static-dissipative material. It would have been obvious to one of ordinary skill to have modified the handle of Pisacane as such to further dissipate any charge that may be on the surface being cleaned. The use of "micro-porous" foams are generally known in the art the use thereof in the device of Pisacane would be obvious to one of ordinary skill based on availability, cost, etc.

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of Ito et al (USP 4,741,066). The patent to Pisacane discloses the use of a polymeric handle material and fails only to disclose the specific material of claim 2. The patent to Ito discloses the use of polybutylene terephthalate (see column 2, lines 54-66) along with some other constituents (and as such is "modified" insofar as this term is defined in the present application). It would have been obvious to one of ordinary skill to have used any such

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material recognized by the art as suitable for implement handles based on ease of manufacture, etc.

4. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of Halford et al (USP 4,401,130). The patent to Pisacane discloses a swab in the embodiment of figure 4 and fails only to disclose the foam portion in the form of a seamless "tube" (essentially the embodiment of fig 3 in the present application). The patent to Halford discloses a cleaning swab wherein the swab material (1) is in the form of a seamless tube which is then bonded or otherwise secured to a handle (2). The modification of the device of Pisacane as such would be an obvious choice of design depending on the desired article to be cleaned or for even just for sake of appearance.

5. Claims 1,3,4 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burrow et al (USP 5,214,821) in view of the admitted prior art of paragraph 0005. The patent to Burrow discloses a swab for cleaning electrical equipment in a cleanroom environment comprising a handle (10) of nylon (see column 5, line 26) and further including a tubular knit polyester fabric (14) (see column 4, lines 9-10) spirally wound onto the handle and thermally sealed thereto (the particular type of thermally attaching the two relates to the method of manufacture and is not germane to the patentability of the device itself. Applicant has defined the cleaning tip as being a knit tube of polyester, which is taught by the patent to Burrow. With regard to the material of the handle, applicant's admission in paragraph 0005 states that the use of such a material is known in the art and that it would have been obvious to one of

ordinary skill to have modified the device of Burrow for the same reason(s) set forth above.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Bhattacharjee et al is pertinent to antistatic materials, Sills to a swab with a foam material and Garcia to the general use of a microporous material.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (703) 308-1271. The examiner can normally be reached on M-Th (6-3:30), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (703) 308-2920. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Mark Spisich
Primary Examiner
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